

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
New Part 4 of the Commission's Rules)	ET Docket No. 04-35
Concerning Disruptions to Communications)	

REPLY COMMENTS OF
QWEST COMMUNICATIONS INTERNATIONAL INC.

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SUMMARY

There is widespread agreement in the initial round of comments that the existing reporting regime, buttressed by the industry's voluntary reporting initiative, should continue. Several parties propose that the Commission convert to an entirely voluntary reporting regime – a concept that is worthy of further consideration. Should the Commission maintain mandatory reporting for wireline voice and expand the regime to cover new services/technologies, there is widespread support for Qwest's position that the Commission's proposed new common metric is fundamentally flawed. Numerous parties support the Industry-Led Outage Reporting Initiative's ("ILORI's") proposed alternative metrics which are tailored to specific operations/technologies.

There is also considerable support in the initial comments for Qwest's positions regarding the Commission's other proposed modifications to its reporting regime. Numerous parties support Qwest's advocacy that the Commission adopt an ILORI-proposed alternative definition of "airports" subject to the special reporting requirements of Section 63.100(e). Numerous parties concur in Qwest's views that the Commission should modify its proposal regarding 911 special facilities to make clear that there is no reportable outage where the impacted facility has lost ALI-ANI capability, should retain a reasonable threshold for triggering a 911 special facility reporting obligation and should adopt the ILORI-proposed alternative 911 special facility reporting requirement. Numerous parties join Qwest in supporting ILORI's proposed three-step reporting process. However, the Commission, if it adopts this proposal, should clarify the requirements of the first of the three required reports. There is also strong support for eliminating the proposed attestation requirement for Initial Reports, for modifying the proposed new electronic filing requirements to ensure essential functionality and for eliminating the proposed new content requirements for Final Reports regarding diversity/redundancy and root

cause. Finally, numerous parties join Qwest in advocating that the Commission maintain all outage reports on a confidential basis.

In this reply comment, Qwest supports various new proposals of the commenting parties. In the event the Commission extends mandatory reporting to wireless services, Qwest supports a slightly different version of the blocked-call wireless metric proposed by Cingular. Qwest supports Bell South's proposed clarification of what constitutes a "working" DS3 and the proposal by numerous parties to modify the definition of when an outage affecting a major airport is reportable.

Qwest also opposes, in this reply, certain proposals of the commenting parties. Qwest opposes MCI's proposals regarding the Commission's proposed LEC tandem and DS3 outage reporting requirements and opposes Wiltel's proposals regarding the Commission's wireline voice and DS3 outage reporting requirements. Qwest opposes Nextel proposal to create a new ILEC reporting requirement for all T-1 outages. Finally, Qwest opposes proposals by the City of New York, the National League of Cities and the National Association of Telecommunications Officers and Advisors (seeking mandatory outage reporting for public data networks and a blanket fifteen-minute reporting requirement for 911 outages) and by the Kansas Corporation Commission (seeking additional content requirements for reports and lower reporting thresholds) that would expand the Commission's reporting regime unreasonably.

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Qwest Communications International, Inc. ("Qwest"), through counsel and on behalf of itself and its affiliates, submits the following reply comments in connection with the Federal Communications Commission's ("Commission") *Notice of Proposed Rulemaking* in the above-referenced docket. In the *NPRM*, the Commission asked for comment regarding proposed modifications to the Commission's current service disruption reporting requirements.¹

I. INTRODUCTION: THERE IS WIDESPREAD AGREEMENT THAT THE EXISTING REPORTING REGIME SHOULD CONTINUE WITH MINOR MODIFICATION OR SHOULD BE MORE ALIGNED WITH INDUSTRY ALTERNATIVES

Qwest supports the majority of commenting parties that advocate the Commission continue the current mandatory outage reporting regime for wireline carriers, supplemented by the industry's existing voluntary reporting initiative.² There are also commenting parties that

¹ In the Matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications, ET Docket No. 04-35, *Notice of Proposed Rule Making*, 19 FCC Rcd 3373 (2004) ("*NPRM*").

² See, generally, Comments of Lucent Technologies, Inc. ("Lucent"), pp. 2-3; Comments of AT&T Corp. ("AT&T"), pp. 7-9; Comments of CTIA – The Wireless Association ("CTIA"), pp. 6-8; Comments of Iridium Satellite LLC ("Iridium"), p. 4 (in satellite context); Comments of Blooston Law Rural Carriers ("Blooston Law"), pp. 3-4; Comments of Alliance for

concur with Qwest that the Commission's perceived flaws with respect to the existing mandatory reporting rules can be corrected by minor modifications to that regime rather than a total overhaul.³ For example, the Independent Telephone and Telecommunications Alliance ("ITTA") concurs that the Commission's concern about under-reporting due to the use of a metric defined by the number of customers impacted is addressed by simply requiring reporting based on the number of access lines.⁴

A large number of commenting parties also concur with Qwest's position that, assuming mandatory reporting is maintained for wireline voice telephony outages and expanded to cover new services or technologies, the Commission's proposed new common metric is fundamentally flawed.⁵ There is widespread agreement that the Commission should not impose a common metric across a broad range of industry operations and technologies. Instead, most commenting parties call for metrics tailored to the specific operations/technologies at issue and support Industry-Led Outage Reporting Initiative's ("ILORI's") proposed metrics for wireline voice,

Telecommunications Industry Solutions, Inc. (or "ATIS"), pp. 5-12; Comments of United States Telecom Association ("USTA"), pp. 4-6; Comments of Cingular Wireless LLC ("Cingular"), p. 13; Comments of Sprint Corporation ("Sprint"), pp. 2-5; Comments of Nextel Communications, Inc. ("Nextel"), pp. 2-5; Comments of T-Mobile USA, Inc. ("T-Mobile"), pp. 4-7; Comments of Verizon Telephone Companies ("Verizon"), pp. 5-6, 17-18; Comments of SBC Communications, Inc. ("SBC"), pp. 20-21; Comments of BellSouth Corporation ("BellSouth"), pp. 3-4; Comments of the U.S. Department of Homeland Security (or "DHS"), pp. 9-10 (supporting voluntary reporting under certain conditions).

³ Comments of Qwest, pp. 5-6; *see, generally*, Comments of Independent Telephone & Telecommunications Alliance (or "ITTA"), p. 5; Comments of General Communications, Inc. ("General Communications"), p. 3; BellSouth Comments, pp. 6-7.

⁴ ITTA Comments, pp. 5-6.

⁵ *See, generally*, AT&T Comments, pp. 11-17, 23-24; General Communications Comments, pp. 3-4; ITTA Comments, pp. 1-4; ATIS Comments, pp. 12-24; Comments of MCI, Inc. ("MCI"), pp. 2-5; USTA Comments, pp. 6-9; Sprint Comments, pp. 7-12; Verizon Comments, pp. 9-10; SBC Comments, pp. 3-5; BellSouth Comments, pp. 6-10; DHS Comments, pp. 16-17.

IXC/LEC tandem, DS3 and SS7 outages.⁶ As discussed more fully below, both Qwest and Cingular propose workable alternatives to the Commission's proposed wireless metric.⁷

Moreover, Qwest believes that the proposal made by several commenting parties that the Commission convert its mandatory reporting regime to an entirely voluntary one is a concept worthy of serious consideration.⁸ Parties supporting an entirely voluntary regime propose that service disruption reports be routed through the Department of Homeland Security under the auspices of the Homeland Security Act ("HSA").⁹ The benefit of this approach, in their opinion, is that there are already processes in place under the HSA framework to protect the sensitive information contained in service outage reports. Qwest supports investigating this approach in more detail. Currently, voluntary reporting by carriers is done through the National Communications System (or "NCS"). As discussed more fully below, a reporting regime founded on all voluntary reporting through the NCS might well accomplish the Commission's public interest and national security objectives.

⁶ See, generally, AT&T Comments, pp. 11-17, 21-24; General Communications Comments, pp. 3-4; ATIS Comments, pp. 12-24; USTA Comments, pp. 10, 22-23; Sprint Comments, p. 22; Verizon Comments, pp. 10-11, 14-15, 20; SBC Comments, pp. 6-7, 8-11; BellSouth Comments, pp. 11-13, 23-26.

⁷ See text, pp. 6-7, *infra*.

⁸ See, generally, DHS Comments, pp. 10-13; AT&T Comments, pp. 29-30; CTIA Comments, pp. 9-11; Blooston Law Comments, pp. 1, 3-4, 8; Cingular Comments, pp. 8-14; T Mobile Comments, pp. 14-16.

⁹ Pub. Law No. 107-296, 116 Stat. 2135 (Nov. 25, 2002).

II. THERE IS ALSO WIDESPREAD SUPPORT IN THE COMMENTS FOR QWEST'S PROPOSED MODIFICATIONS TO THE COMMISSION'S OTHER PROPOSALS REGARDING THE EXISTING REPORTING REGIME

There is widespread support in the Comments for modifications to the Commission's proposed service disruption rules beyond the matter of the common metric and the adoption of industry proposals. For example, a substantial number of parties support Qwest's advocacy that the Commission should impose an alternative definition of "airports" subject to the special reporting requirements of Section 63.100(e). Most of these parties back the ILORI-proposed definition supported by Qwest - requiring reports for disruptions affecting the top 137 prime hub airports as defined by the FAA.¹⁰

Numerous parties also join Qwest in urging the Commission to modify its proposal regarding the 911 special facility reporting requirement. There is substantial support among these parties that the Commission should modify its proposed new rules, in both the wireline and wireless 911 contexts, to make clear that there is no reportable outage where the impacted facility has lost ALI-ANI capability but has not lost basic 911 service.¹¹ Additionally, numerous parties agree that proposed new Section 4.5(e) goes too far in eliminating any threshold for

¹⁰ AT&T Comments, pp. 17-18; ATIS Comments, pp. 24-25; MCI Comments, p. 9; USTA Comments, p. 12; Sprint Comments, pp. 12-13; Verizon Comments, p. 16; SBC Comments, p. 12; BellSouth Comments, pp. 14-15.

¹¹ AT&T Comments, p. 20; CTIA Comments, p.14; ATIS Comments, p. 27; USTA Comments, p. 13; Sprint Comments, pp. 13-14; Verizon Comments, p. 14; SBC Comments, pp. 13-14; BellSouth Comments, p. 17.

triggering a 911 special facility reporting obligation. Instead, most parties that address this issue support the ILORI-proposed alternative discussed in Qwest's initial comments.¹²

A large number of parties also join Qwest in calling for a three-step reporting process instead of the blanket 120-minute filing deadline for Initial Reports proposed in the *NPRM*.¹³ Under this alternative rule, also crafted by ILORI, providers would have 120 minutes to notify the Commission of an event, 72 hours to submit an Initial Report and 30 days to submit a Final Report. As discussed more fully below, the Commission should, if it adopts this proposal, clarify the requirements of the first of the three required reports.

There is also strong support for eliminating the proposed attestation requirement for Initial Reports and modifying the proposed new electronic filing requirements to ensure essential functionality.¹⁴

There is also a majority advocating that all outage reports should be submitted on a confidential basis.¹⁵

¹² See, generally, AT&T Comments, pp. 19-20; ATIS Comments, p. 26; USTA Comments, p. 13; Sprint Comments, p. 15; Verizon Comments, p. 13; SBC Comments, p. 13; BellSouth Comments, p. 16.

¹³ AT&T Comments, pp. 24-25; CTIA Comments, pp. 15-16; ATIS Comments, p. 30; USTA Comments, p. 14; Verizon Comments, p. 8; SBC Comments, p. 17; BellSouth Comments, pp. 19-20.

¹⁴ With respect to attestation, see, generally, ATIS Comments, p. 32; SBC Comments, p. 17; BellSouth Comments, pp. 34-35. With respect to functionality, see, generally, AT&T Comments, pp. 27-28; ATIS Comments, pp. 35-37; Verizon Comments, pp. 21-22; SBC Comments, pp. 18-19; BellSouth Comments, p. 28.

¹⁵ See, generally, Iridium Comments, p. 8; Comments of Global Star LLC ("Global Star"), pp. 5-8; AT&T Comments, pp. 29-30; Blooston Law Comments, pp. 8-9; ATIS Comments, p. 3; Lucent Comments, p. 3; MCI Comments, pp. 6-7; USTA Comments, p. 24; Cingular Comments, pp. 9-12; Sprint Comments, pp. 27-28; T Mobile Comments, pp. 17-19; Verizon Comments, p. 22; SBC Comments, p. 22; BellSouth Comments, pp. 27-28; DHS Comments, pp. 13-15.

Finally, numerous parties join Qwest in calling for the Commission to strike its proposed new requirements that reports contain a statement as to whether the outage was at least partially caused because the network did not follow engineering standards for full diversity (redundancy) and contain a statement of all the causes of the outage (instead of just the root cause, as previously required).¹⁶

III. QWEST SUPPORTS VARIOUS NEW PROPOSALS OF OTHER COMMENTING PARTIES

A. If mandatory reporting is extended to wireless services, Qwest supports a blocked call metric.

In its initial comments, Qwest identifies certain flaws in the wireless metric as proposed in the *NPRM*.¹⁷ Numerous other commenting parties agree that the proposed metric is flawed.¹⁸ While Qwest contends that wireless services should remain subject only to voluntary reporting, it also proposed an alternative wireless metric that would eliminate these flaws in the event wireless is made subject to mandatory reporting.¹⁹ That proposal would require reports of outages lasting at least 30 minutes and potentially affecting 900,000-“minutes of use,” using historical like-time/like-day minutes of use peg counts, as opposed to the 900,000 user minutes metric proposed in the *NPRM*.²⁰

¹⁶See, generally, AT&T Comments, pp. 26-27; Iridium Comments, p. 7; USTA Comments, p. 16; Sprint Comments, p. 19; SBC Comments, pp. 17-18.

¹⁷ Qwest Comments, pp. 9-11.

¹⁸ See, generally, CTIA Comments, pp. 11-13; Blooston Law Comments, p. 6; Cingular Comments, pp. 14-15; Sprint Comments, pp. 22-24; Nextel Comments, p. 10; T Mobile Comments, pp. 7-9.

¹⁹ Qwest Comments, pp. 9-11.

²⁰ *Id.*, p. 11.

Despite Qwest's early advocacy, having had the opportunity to review the filed comments and reflect on the operational implications of various reporting models, Qwest now supports a "blocked-call metric" as the preferable metric in the wireless context. Such a "blocked-call metric" would require reporting of outages that last at least 30 minutes resulting in 30,000 or more blocked calls based upon peg counts for historic like-time/like-day use.²¹ Blocked calls are the metric currently used for voluntary reporting in the wireless context under the ILORI initiative. Accordingly, wireless providers already have personnel and processes in place to comply with this requirement. Finally, a blocked-call metric is simply easier to apply than Qwest's "minutes-of-use" metric.

B. Qwest supports Bell South's proposed clarification of what constitutes a "working" DS3.

In its initial comments, Bell South proposes that the Commission further clarify the definition of a "working" DS3 for purposes of any new DS3 reporting requirement that may be imposed.²² Qwest supports Bell South's proposal and agrees that a working DS3 should be defined as one with more than 10% of its DSOs in use, *i.e.* 67 DSOs. In other words, the loading of less than 67 DSOs would be considered non-working. Qwest agrees that this distinction is necessary to prevent the reporting of minor events.

C. Qwest supports the proposal by numerous parties to modify the definition of when an outage affecting a major airport is reportable.

In its proposed Section 4.5 (c), the Commission proposes to define an outage "potentially affecting" a major airport, and thereby reportable, as one which:

²¹ In its comments, Cingular proposes a blocked call metric in the wireless context, though it defines the metric a little differently. Cingular Comments, pp. 13, 16-17.

²² BellSouth Comments, p. 24.

- (i) disrupts 50% or more of the air traffic control links or other FAA communications links to any airport or;
- (ii) has caused an Air Route Traffic Control Center (ARTCC) or airport to lose its radar or;
- (iii) causes a loss of both primary and backup facilities at any ARTCC or airport; or
- (iv) affects an ARTCC or airport that is deemed important by the FAA as indicated by the FAA inquiry to the provider's management personnel; or
- (v) has affected any ARTCC or airport and that has received any media attention of which the communications provider's reporting personnel are aware.²³

Qwest supports the proposal by numerous parties to modify the definition of when an outage affecting an airport is reportable.²⁴ As stated in the comments of the Alliance for Telecommunications Industry Solutions, the *NPRM*'s proposed definition leaves too much room for subjective judgment as to when a reportable outage has occurred.²⁵ This opportunity for subjective determinations will undoubtedly result in inconsistent reporting. Because of this flaw, ATIS and other parties propose that the Commission adopt, as an alternative, the definition recommended by the Network Reliability and Interoperability Council ("NRIC") VI Focus Group 2. Focus Group 2 recommends that an outage affecting an airport be reportable if it is deemed to be "air traffic impacting." "Air traffic impacting" is defined as:

"the loss of greater than 50% of telecommunications services at a critical air traffic control facility including an airports Terminal Radar Approach Control (TRACONS) or Air Traffic Control Towers (ATCTs) or a FAA Air Route Traffic Control Center (ARTCC) that impacts the ability of the air traffic facility to control air traffic as determined by the FAA Air Traffic Supervisor at the Air Traffic Systems Command Center (ATSCC). This may include loss of critical telecommunications services that transmit

²³ *NPRM*, 19 FCC Rcd at 3406 (Appendix A).

²⁴ SBC Comments, p. 12; AT&T Comments, p. 18; MCI Comments, p. 9; USTA Comments, p. 12; Sprint Comments, p. 13; Verizon Comments, p. 17, ATIS Comments, p. 26.

²⁵ ATIS Comments, p. 26.

radar data, flight plan data or controller-to-pilot and controller-to-controller voice.²⁶

This is a more objective proposal and will lead to more consistent reporting. The Commission should accept this proposal.

D. In the event ILORI's three-step reporting process is adopted, the Commission should clarify the requirements of the first report.

In its initial comments, Qwest proposed that the Commission retain a differentiated time calculation for the filing of Initial Reports.²⁷ As discussed more fully in those comments, the new rule proposed in the *NPRM* (requiring all Initial Reports to be filed within 120 minutes) is both counterproductive and unnecessary. Because of these concerns, Qwest proposed an alternative Initial Report filing rule that would establish new thresholds for determining when Initial Reports must be expedited.²⁸ Qwest's proposed thresholds are tailored to the different metrics for the different carrier operations and technologies at issue.

In its initial comments, Qwest also stated that, if the Commission is intent upon eliminating a threshold for determining when expedited reports should be filed, Qwest supports ILORI's alternative three-step reporting process. Under that proposal, providers would have 120 minutes to notify the Commission of an event, 72 hours to submit an Initial Report and 30 days to submit a Final Report.²⁹ Numerous other commenting parties support this proposal.³⁰

²⁶ NRIC VI Focus Group 2 – Network Reliability, *Final Report*, page 47 (Nov. 17, 2003).

²⁷ See Qwest Comments at summary and pages 19-21.

²⁸ See *id.*

²⁹ As stated in its initial comments, Qwest reads the requirement stated at paragraph 30 of the *NPRM* that expedited report filing is to occur “within 120 minutes of discovering a reportable outage” to mean that the deadline is triggered at the point the provider has made a determination

Yet, while commenting parties are generally united in their support for the ILORI proposal as a “concept,” they present differing proposals regarding the requirements of the first report. For example, BellSouth proposes that the initial step be a report by electronic filing, telephone or facsimile, wherein the following information would be provided: “Reporting Entity, Date, Time, Brief Description of Problem, Services Affected, Geographic Area, Contact Name and Contact Number[.]”³¹ Verizon proposes a report by electronic mail or telephone of a “determination that a reportable outage has occurred, with whatever specifics (location, extent of problem) that the service provider has been able to ascertain[.]”³² Nextel proposes that the first report “simply state that some problem has occurred, and identify, if possible, the extent of the outage, without engaging in any analysis of the root cause (or causes)[.]”³³ AT&T and ATIS propose a report by electronic mail, telephone or facsimile that a “reportable incident has occurred or is occurring.”³⁴

that a reportable outage has occurred, not necessarily when the outage first occurs or first reaches a reportable threshold. In some circumstances, despite the provider’s best efforts, the nature or extent of the outage can not be learned until some time after the outage first occurs or reaches a reportable threshold. This delay in turn must delay the filing of the Initial Report. The Rural LECs support Qwest’s interpretation as being the only reasonable one, but argue that the Commission needs to recraft the proposed rule language to make the matter clearer. Comments of the Rural Incumbent Local Exchange Carriers on the Initial Regulatory Flexibility Analysis, filed May 25, 2004, at 5-6. Qwest does not agree that an amendment is necessary. On the other hand, it would do no harm. However, the entire issue would be rendered moot by ILORI’s three-step proposal – another advantage of the ILORI proposal. Under that proposal, the provider gives its first report at the first sign of a potentially serious outage and then has adequate time (72 hours) to complete the assessment needed for the written Initial Report. Because of this, reporting need not await a provider’s determination that a “**reportable** outage” has occurred.

³⁰ See note 13 and associated text, *supra*.

³¹ BellSouth Comments, p. 19.

³² Verizon Comments, p. 8.

³³ See Nextel Comments, p. 6.

³⁴ See AT&T Comments, pp. 4, 5, 25; ATIS Comments, pp. 31-32.

If the ILORI three-step reporting process is adopted, the Commission should clarify the requirements of the first report, including its required content and the required filing process. Qwest believes that, of the various proposals, that proffered by BellSouth proposal is the best. It will give providers clear guidance and assure that the Commission has, on a timely basis, a reasonable amount of information from which it can determine if a significant outage or emerging pattern of outages is occurring. Under the BellSouth model, the initial step would be a report by electronic filing, telephone or facsimile reporting information responsive to the following report fields: Entity, Date, Time, Brief Description of Problem, Services Affected, Geographic Area, Contact Name and Contact Number. Qwest also supports a further clarification that this first report should be directed to the Commission's watch officer.

E. Qwest supports further consideration of the proposal of various parties that the Department of Homeland Security have a role in outage reporting.

In its initial comments, the Department of Homeland Security proposes that all reporting, including mandatory reporting required by the existing rules, be made voluntary and routed through the DHS' Protection of Critical Infrastructure Information Program Office to the National Communications System and certain industry entities generally support that concept in their initial comments.³⁵ Supporters of this reporting approach argue that it would best protect critical infrastructure information about the nation's telecommunications system from public disclosure.

Though further proceedings would be necessary to flesh out the details of this proposal, Qwest believes this is a concept worthy of serious consideration. An all-voluntary reporting regime has considerable merit, particularly if it would help ensure that outage report information

³⁵ DHS Comments, pp. 10-13; *see also* AT&T Comments, pp. 29-30.

be maintained on a confidential basis. At the same time, Qwest requires further information and analysis before it could support a system that required all reports to be directed to DHS in the first instance. Qwest supports the notion that the service disruption reports would ultimately be lodged with the NCS, in much the same way as voluntary reports are processed today. Still the notion that all reports be filed first with DHS, then making their way to the NCS, is a concept that needs further vetting to assess the pros and cons of the proposal. If the Commission believes it warranted, Qwest would support a further rulemaking directed to this kind of agency hand-off with respect to service outage reporting.

Finally, Qwest disagrees with the position put forth by Cingular to the effect that mandatory outage data submissions cannot be protected from public disclosure.³⁶ Under existing statutory and regulatory prescriptions this is incorrect. As discussed in Qwest's initial comments, disruption reporting outage reports qualify for confidential protection under the Commission's FOIA rules as they contain potentially confidential and commercially-valuable provider information.³⁷ Additionally, the Commission's FOIA rules can accommodate confidentiality protection of information associated with the national security.³⁸

³⁶ Cingular Comments, pp. 10-11.

³⁷ Qwest Comments, pp. 24-25.

³⁸ 47 C.F.R. § 0.457(a) and (c).

IV. QWEST OPPOSES VARIOUS PROPOSALS OF OTHER COMMENTING PARTIES THAT WOULD EXPAND THE EXISTING REGIME FURTHER THAN THAT POPOSED IN THE *NPRM*

A. Qwest opposes MCI's proposals regarding the Commission's proposed LEC tandem outage and DS3 outage reporting requirements.

In its initial comments, MCI proposes that the Commission's new LEC tandem outage reporting requirement be further expanded to include both LEC tandem switch outages and LEC transport facility service disruptions and that the Commission eliminate its proposed new DS3 outage requirement.³⁹ With respect to the former, MCI argues that the LEC tandem switch reporting requirement is too narrow. With respect to the latter, MCI argues that that the "900,000 user-minute and 90,000 blocked-call criteria" will "adequately capture the data the Commission is seeking" and argues that the proposed new DS3 requirement will impose "double jeopardy" on carriers as outages falling within the new DS3 metric requirement may also trigger a report obligation under another metric. MCI's proposals should be rejected. To the extent MCI's comments identify legitimate flaws with the Commission's proposed new common metric, those flaws are eliminated by the ILORI proposals supported by Qwest and other commenting parties.

While MCI is correct that the Commission's proposed new common metric will result in overlapping reporting obligations, MCI's proposals do not eliminate this overlap and would only unnecessarily expand the LEC tandem outage reporting requirement. Under the Commission's proposed common metric, a single outage situation could trigger reporting obligations under

³⁹ MCI Comments, p. 4.

more than one reporting rule. For example, an outage could easily trigger reporting obligations under the general “user-minutes” metric for wireline voice (*e.g.* affecting both 900,000 user minutes and 1350 DS3 minutes) and the IXC/LEC tandem outage metric (*e.g.* resulting in 90,000 blocked calls and affecting 1350 DS3 minutes). However, even if DS3 minutes were eliminated as a separate measurement under both the general wireline voice metric and the IXC/LEC tandem outage metric, there could still be double reporting for a single outage. A single outage could still trigger reporting under both the wireline voice and IXC/LEC tandem outage metrics (*e.g.* affecting 900,000 user minutes and resulting in 90,000 blocked calls at a LEC tandem switch). MCI’s proposal would only expand this overlap problem by expanding the definition of LEC tandem outages to encompass a LEC’s entire network.

These problems are eliminated by the ILORI proposals. ILORI’s proposal calculates both the general wireline voice metric and the tandem switch outage metric using a blocked-call measurement. Moreover, these metrics capture outages on different facilities – the wireline voice metric applies to outages involving host and remote switches and the tandem outage metric measures outages on tandem switches. Additionally, under the ILORI proposal, the DS3 metric is a separate and independent metric. It is not simply included as an alternative metric for general wireline voice outages and tandem outages.⁴⁰ While there still may be some possibility

⁴⁰ Again, Qwest understands the ILORI DS3 metric to be as follows:

If a significant infrastructure transport component (defined as 48 working DS3’s) is within a service provider’s network and the service provider is responsible for maintenance of the DS3 transport components at both end points, providers would be required to report any failure of 48 working DS3’s that lasts for 30 or more minutes within the communications infrastructure and did not switch to protect. If an outage lasts 6 hours or more and involves 24 working DS3’s but less than 48 working DS3’s then a report would also be required. Anything less than 24 working DS3’s would not be reportable.

of double reporting obligations under the ILORI proposal, the ILORI framework minimizes that possibility.

Finally, the ILORI proposal has the added advantage of establishing separate requirements for the two distinct types of reporting information sought by the Commission – access-related outages captured by the general wireline voice and tandem outage requirements and infrastructure-related outages captured by the DS3 outage requirement.⁴¹ Because of this, Qwest also supports BellSouth’s and Verizon’s comments to the effect that the DS3 rule must distinguish between infrastructure and access DS3s, with only the former being subject to the DS3 rule.⁴²

For the reasons described above, the MCI proposals regarding the LEC tandem and DS3 outage reporting requirements should be rejected.⁴³

B. Qwest opposes Nextel’s proposed special ILEC reporting requirement for all T-1 outages.

In its initial comments, Nextel proposes that the Commission further expand its mandatory reporting requirements to require that ILECs report all T-1 outages regardless of end-user impact. This proposal would over-extend the Commission’s reporting regime beyond its basic public interest framework.

⁴¹ The *NPRM* confuses these separate goals and creates unnecessary overlap by including the DS3 metric as a separate reporting trigger under the various reporting requirements (*e.g.* general wireline, tandem outages and wireless). At the very least, the Commission should delete the language in its proposed new Section 4.9 establishing a separate DS3 metric in these contexts.

⁴² BellSouth Comments, pp. 24-25; Verizon Comments, p. 19 (calling for outages of DS3 to be reported only where the outage is in an interoffice facility – *i.e.* “not DS3 and higher facilities serving end-user customers[]”).

⁴³ See MCI Comments, p. 4. MCI’s proposals are also transparently self-serving. MCI, which is primarily an IXC, asks that a new burdensome requirement be imposed only on LECs and does not propose a similar new reporting requirement for IXC transport facilities.

Nextel's concerns can be adequately addressed in individual service agreements.

Nextel's own comments demonstrate that its proposal is intended to expand the Commission's reporting regime to reach isolated service quality issues. Nextel's concern is that LEC T-1s go out of service on a frequent basis thereby impacting service to CMRS users.⁴⁴ By definition, these types of T-1 outages tend to be random, often result in the isolation of a single cell site and do not by themselves have a significant user impact. However, Nextel complains that CMRS providers are blamed unfairly for poor service when these outages occur.⁴⁵

Nextel acknowledges that the impact of multiple T-1 outages on CMRS service quality is already being addressed in the Notice of Proposed Rulemaking in the Special Access Performance Metrics Proceeding.⁴⁶ In any event, these outages are simply not appropriate events for reporting under the Commission's reporting regime.

C. Qwest opposes the expansion of the outage reporting regime proposed by the City of New York, et al.

In their initial comments, the City of New York, National League of Cities and National Association of Telecommunications Officers and Advisors ("New York, et. al.") propose two significant expansions of outage reporting beyond that contemplated by the *NPRM*. Both proposals should be rejected.⁴⁷

⁴⁴ Nextel Comments, p. 11.

⁴⁵ *Id.*, p. 12.

⁴⁶ Performance Measurements and Standards for Interstate Special Access Services, *Notice of Proposed Rulemaking*, CC Docket No. 01-321, 16 FCC Rcd 20896 (2001).

⁴⁷ New York, et al. also suggest that the mandatory outage reporting regime should be extended to Voice Over Internet Protocol or "VOIP." The Commission should wait until it has made further determinations as to the status of VOIP and its various different iterations before considering what reporting obligations, if any, should be imposed.

First, New York, et. al. propose that mandatory reporting should be extended to “public data networks,” in addition to the new classes of services or technology already proposed for reporting for the first time in the *NPRM*.⁴⁸ There is no basis at this time for such an expansion of the Commission’s service disruption reporting requirements. New York et al. fail to articulate any added benefits stemming from an extension of mandatory reporting to public data networks and fail to offer any real justification for imposing additional costs on providers.

On the other hand, as discussed extensively in Qwest’s initial comments and in the comments of the majority of other parties who address this issue, the current mandatory reporting regime as bolstered by voluntary industry reporting initiatives is more than adequate. The industry’s voluntary reporting initiative already encompasses certain data outages. The *NPRM* already contemplates extending mandatory reporting to DS3 outages and notably does not contemplate interfering with the industry’s existing voluntary reporting initiatives on data outages. Balancing the New York, et al. proposal with the other commentary on the record makes clear that the New York et al. proposal to extend mandatory reporting to public data networks should be rejected.

Second, New York, et al. propose that the Commission impose even more aggressive reporting requirements for 911 outages than those proposed in the *NPRM*. Specifically, New York et al. propose that fifteen-minute outages, instead of thirty-minute outages, be reportable if they affect PSAPs.⁴⁹ This proposal is overbroad and its proponents fail to support the proposal with any reasonable cost/benefit or public interest analysis.

⁴⁸ New York, et al. Comments, p. 10.

⁴⁹ *Id.*, pages ii, 13.

Qwest does not dispute the importance of 911 services to our society today. However, as discussed more fully in Qwest’s initial comments, even a blanket thirty-minute reporting outage requirement without any threshold for user impact is excessive.⁵⁰ Qwest supports a reasonable modification to these rules, one that clarifies that an outage triggers this rule only when actually involving a 911 special facility and one that maintains a reasonable user impact threshold for triggering a 911 special facility reporting obligation. Specifically, Qwest supports ILORI’s proposed new reporting rule for 911 special facility outages.

Even if the Commission rejects this proposal, however, a blanket fifteen-minute reporting outage requirement without any threshold for user impact is clearly excessive and would impose unwarranted costs on providers. At the very least, as Sprint advocates in its initial comments, the Commission should not impose any new expansion of the 911 special facility reporting obligation until the recently convened NRIC VII task force has completed its work regarding the appropriate criteria for reporting outages affecting 911 services.⁵¹

D. Qwest opposes Kansas Corporation Commission’s proposals to add to the required content of reports and to further lower reporting thresholds.

In its comments, the Kansas Corporation Commission (“KCC”) proposes additional content requirements for disruption reports that would require detail about the equipment involved in a given outage (*e.g.* adding a request for the vendor’s name and whether the outage occurred as a result of installation/rearrangement activity), information about whether the “Telecommunications Service Priority” program was involved in a given outage, and something

⁵⁰ See Qwest Comments, pp. 11-12.

⁵¹ See Sprint Comments, pp.13-14, 25.

characterized as “Quality of Service” information.⁵² KCC also proposes that the Commission impose an even lower common metric threshold than that proposed in the *NPRM* – at 150,000 user minutes instead of 900,000. These proposals should be rejected.

KCC’s proposal for additional reporting on carrier equipment will only heighten the concerns that commercially valuable information and information affecting the national security will be revealed. Moreover, whether or not installation/rearrangement activity is the root cause of an outage will already be captured by the reporting entity’s root cause analysis. KCC’s proposal to add content regarding the “Telecommunications Service Priority” program and Quality of Service Information will clearly move outage reporting beyond the reporting regime’s public interest framework to what are merely issues of quality of service.

Finally, KCC’s proposal to lower the proposed common metric to 150,000 user minutes is simply unreasonable. As is discussed more fully in Qwest’s initial comments, a per user-minute metric is not workable as a common metric – even at the 900,000 user minute level proposed in the *NPRM*. KCC proposes to lower that threshold and thereby substantially broaden the scope of reportable outages dramatically by capturing outages that impact as few as 150,000 user minutes. KCC does not and can not contend that additional data regarding significant outages is to be gained from this proposed change. Nor does it attempt to justify the cost to providers of such a significant increase in reporting. Indeed, KCC acknowledges that it “ha[s] no empirical data on which to base a calculated recommendation[.]”⁵³ This proposal should be rejected.

⁵² KCC Comments, pp. 4-5.

⁵³ KCC Comments, p. 1.

E. Qwest opposes Wiltel's proposed expansion of the wireline voice and DS3 outage reporting requirements.

Wiltel proposes three different purported “clarifications” to the Commission’s proposed new rules. Each of these proposals should be rejected. To the extent there are legitimate concerns underlying these proposals, those concerns only demonstrate the defects in the new regime proposed by the *NPRM* and are eliminated by ILORI’s proposals.

First, Wiltel requests a “clarification” that IXC’s not be required to report outages that may impact their end users when the outage actually occurs on a LEC network that gives switched access services to the IXC. In the event the Commission does not accept this proposal, Wiltel proposes that the proposed new rule at least be changed to impose the same burdens on IXC’s and resellers in this context. Wiltel notes that the new rules would not appear to require that resellers report outages that may impact their end users when the outage occurs on the IXC network that gives switch-less services to the reseller.

Wiltel’s proposal only further demonstrates why the ILORI proposals are superior to the common metric proposed in the *NPRM*. Wiltel is correct that, if the Commission’s proposed metric of 900,000 potentially affected user minutes is used, the Commission would have to require IXC’s and resellers to report outages on LEC or IXC networks as IXC’s and resellers have the information necessary to determine user impact. However, this issue is eliminated under the ILORI proposals. Under those proposals, the LEC and IXC, respectively, would report covered outages based on actual or historical blocked call volume and would not require customer information from IXC’s and resellers who purchase services from them. On the other hand, if the Commission adopts its proposed metric, it should reject Wiltel’s proposal and require IXC’s to report outages that may impact its end users even when the outage occurs on the network of the LEC providing service.

Second, Wiltel flags another problem created by the Commission's proposed DS3 metric. Specifically, when there are outages on private line DS3 circuits sold by an IXC to another entity that actually serves the ultimate end user, the IXC will not know the extent of the outage's impact on end users. In such circumstances, the IXC will also not know, or be in control of, any back-up functionality that may be in place for those circuits. Because of this, Wiltel proposes that resellers in this context carry the responsibility for reporting impacts on their end users.

This second proposal also highlights a defect in the Commission's proposed common metric that is eliminated by ILORI's proposal. This same problem applies when LECs, as opposed to IXCs, sell circuits. It also applies to individual customers who buy circuits, not just resellers. However, in all of these contexts, the ILORI proposal eliminates the problem. Again, the DS3 metric proposed by ILORI, as discussed more fully at footnote 30 above, would impose a DS3 reporting obligation only when the "infrastructure transport component (defined as 48 working DS3's) is within a service provider's network and the service provider is responsible for maintenance of the DS3 transport components at both end points."⁵⁴ On the other hand, if the Commission adopts its proposed metric, it should accept Wiltel's proposal in order to avoid placing an unrealistic burden on underlying providers.

Wiltel's third proposal is just another variation on the theme underlying its first proposal above. Citing the fact that the Commission's proposed common metric places reporting obligations on IXCs providing switchless service to resellers when it is the resellers who possess the information necessary to determine when a reportable event has occurred, Wiltel proposes that resellers be required to share certain information with IXCs.

⁵⁴ Qwest Comments, p. 13.

As with the first two Wiltel proposals discussed above, this problem is taken care of by ILORI's proposed alternative metrics. Under the ILORI proposal, the LEC and IXC, respectively, would report based on actual or historical blocked call volume and would not need the information from the IXC and reseller, respectively. Wiltel is correct that, if the Commission's proposed metric of 900,000 potentially affected user minutes is used, the Commission would have to impose this information sharing requirement. However, such a requirement is problematic as it would potentially require sharing of competitive information.

V. CONCLUSION

For the foregoing reasons, Qwest respectfully requests that the Commission take the actions described herein.

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CERTIFICATE OF SERVICE

I, Ross Dino, do hereby certify that I have caused the foregoing **REPLY COMMENTS OF QWEST COMMUNICATIONS INTERNATIONAL INC.** to be 1) filed with the FCC via its Electronic Comment Filing System in ET Docket No. 04-35, 2) served, via email on the FCC's duplicating contractor, Best Copy and Printing, Inc. at fcc@bcpiweb.com (or www.bcpiweb.com); and 3) served, via first class, United States Mail, postage pre-paid, on the parties listed on the attached service list.

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